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EXAMINER

OLSON, MARGARET LINNEA

ART UNIT PAPER NUMBER

3727

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,610

Applicant(s)

YARBROUGH, GLEN ALLEN

Examiner

Margaret L. Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "23" has been used to designate both a cord attachment device and a hollowed area. It should be described in the specification how these are related, and one of the two should be renumbered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The abstract of the disclosure is objected to because the first sentence is not complete. Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities:

In the third paragraph of the Background of the Invention, the phrase "hold the pole of net" appears to be a typo for "hold the pole or net".

In the Brief Summary of the Invention, the fifth paragraph has two periods at the end.

In the Detailed Description of the Preferred Embodiments, the cord attachment device is attached somewhere along the "plurality of said tip." It is not clear how a tip may have a plurality, or of what that plurality is.

Appropriate correction is required.

Claim Objections

5. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Two claims have been numbered "1" and the following 11 claims all depend from a claim 1. Misnumbered claims 1-11 been renumbered 2-12, so the first claim 1 remains claim 1, and the second claim 1 becomes claim 2, claim 2 becomes claim 3, and so forth. Since the renumbered claims 3-12 depend from "the apparatus of claim 1" either directly or indirectly, and the newly renumbered claim 2 is the only prior claim citing an apparatus, it is assumed that those claims meant to depend from the second claim 1, or the current claim 2.

The rest of the claim dependencies have been renumbered according to the renumbering of the claim from which they originally depended. For instance, claim 9, formerly depending from claim 8, is now claim 10, and depends from claim 9.

Throughout the rest of this office action, the claims will be referred to by their new numbers.

6. Claim 7 is objected to under 37 CFR 1.75(c) as being in improper form because it depends in improper multiple form from both claim 2 and claim 6. See MPEP § 608.01(n). Accordingly, claim 7 not been treated further on the merits.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim two, no way for the apparatus to forbid "said

tip to come back through said passage without assistance of user” is enumerated, rendering the scope of the claim indeterminate.

In addition, claim 2 a tip for “allowing piercing and or passage” is mentioned. The term “and or” renders the scope of the phrase indefinite. Either “and” or “or” should be chosen to clarify the claim.

9. Claim 7 recites the limitation “matched receptacle in claim 6” in line three. There is insufficient antecedent basis for this limitation in the claim, since claim 6 does not make any mention of receptacles.

In addition, claim 7 recites a “shaft of tip as outlined in claim 2” in line two. There is insufficient antecedent basis for this limitation in the claim, since claim 2 does not mention the tip having a shaft.

10. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether the claimed subject matter is an apparatus or the method of construction of the apparatus. If the claimed subject matter is an apparatus, patentable weight will only be given to the method of construction of the apparatus in so far as it changes the structure and properties of the apparatus.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 2, 3, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US 3,854,638). Anderson discloses a fish stringer with a tip 12 and an extension 40 on the opposite ends of a cord 10 (figure 1).

With respect to claim 2, Anderson discloses an apparatus for securing fish after catch with a tip 12 with a sharp point 14 and a cord 10 attached to the tip at a position such that after the tip has pierced and passed through a fish lip or gill it is difficult for it to come back through without the user assisting it.

With respect to claim 3, cord 10 is attached to tip 12 at an intermediate point (column 2, lines 63-67).

With respect to claim 4, tip 12 is hollow, allowing cord 10 to rest inside (column 2, lines 59-65).

With respect to claim 6, tip 12 can be turned perpendicular to the cord 10 and placed in the groove of a handle 26 to secure it and allows for quick removal of the tip. Figure 3 shows the device being operated with one hand.

13. Claims 1, 2, 4, 6, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Creed (US 5,025,587). Creed discloses a fish stringer 10 with a body having two opposite ends, a tip 16, an extension at the opposite end 12, and a cord attachment 14 between the two opposite ends (figure 1).

With respect to claim 2, Creed discloses an apparatus for securing fish after catch including the tip 16 with cord attachment 14 and positioned so that it may be

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passed through a fish lip or gill. The tip 16 has an enlarged head 28 with an abutment surface connecting to the rest of the tip, forbidding the tip from coming back through the fish lip or gill without user assistance (figure 1).

With respect to claim 4, tip 16 is formed with a shaft 24 made of a hollow tube with the cord 14 secured inside, so that the cord does not impede tip passage.

With respect to claim 6, the tip may be removed easily from the extension bracket 12 with one hand (column 3, lines 6-10).

With respect to claim 7, the tip head 28 is integrated with the tip shaft 24. The abutment at their meeting point prevents the tip from disengaging from the receptacle 12 (column 4, lines 33-9). The shoulder of the connection between 28 and 24 is shown to be substantially perpendicular in figures 1 and 4.

With respect to claim 8, the tip 16 is secured through spring retention properties in the receptacle 12 by placing it into a slot region 38 with latch arms 32, 34 that deflect when the tip is pressed through them. After the tip is through them and in guide slot 36, latch arms 32, 34 spring back into their original shape, preventing the tip from accidentally releasing itself (column 5, lines 10-17). The tip may then be removed by the user at any point (column 5, lines 38-42).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 3,854,638) in view of Carpenter (US 4,976,382). Anderson discloses a fish stringer as in claim 2 (see paragraph 12) but does not disclose a curve in the tip formation.

Carpenter teaches a fish stringer 10 with a tip 12 having a curved shaft 14. It would have been obvious to one of ordinary skill in the art at the time of invention to make the tip of a fish stringer curved in order to make it more difficult for the fish to slip off the cord after loading.

16. Claims 9, 10, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Creed (US 5,025,587) in view of Anderson (US 3,854,638). Creed discloses the apparatus with the anchoring device 12 to attach to various positions (column 2, lines 44-49), a tip 16 that may be releasably attached to the anchor device, and a cord end attached to the anchor device (figure 1). Creed does not disclose a cord of adjustable length for use with the fish stringer. Anderson teaches a fish stringer with a cord 10 attached to the anchor device 26 with a bar 50 that can be used to adjust the length of the cord hanging above or below the anchor (column 5, lines 17-22). He also teaches wrapping the cord through the anchor device slot 34 to quickly adjust the cord hanging beneath to a desired length (column 4, lines 55-65). It would have been obvious to one of ordinary skill in the art at the time of invention to include a means of adjusting the length of a fish stringer cord to easily adapt to the number of fish caught and put on the stringer (column 4, lines 40-43).

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With respect to claim 10, Creed, the primary reference, discloses the opening 38 with spring arms 32/34 that releasably secure the tip when it is passed through them.

With respect to claim 11, the primary reference discloses the receptacle 12 which can temporarily secure the tip as explained in paragraph 13.

With respect to claim 12, Creed discloses the cord 14 secured to the receptacle 12, but he does not disclose a means for adjusting the cord length. Anderson teaches a cord 10 secured to an anchor 26 through two openings 18/20, so that it may move back and forth through the openings and its length may be adjusted with a bar 50 in between the two openings (figure 5). It would have been obvious to one of ordinary skill in the art at the time of invention to secure the cord end to an anchor device so the apparatus would not come apart during use. It would also have been obvious to one of ordinary skill in the art at the time of invention to include a means of adjusting the length of a fish stringer cord to easily adapt to the number of fish caught and put on the stringer (column 4, lines 40-43).

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Griffen et al. (US 2,518,541), Dineen (US 927,840), Boyer (US 2,517,761), Mc Murtrie (US 5,571,228), Cote (US 5,467,908), and Bebb et al. (US 5,573,167) disclose similar inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER

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